

Revision: HCFA-PM-91-4 (BPD)
August 1991

SUPPLEMENT 9 TO ATTACHMENT 2.6-A
Page 1
OMB No.: 0938-

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Iowa

TRANSFER OF RESOURCES

1902(f) and 1917 of the Act The agency provides for the denial of eligibility by reason of disposal of resources for less than fair market value.

A. Except as noted below, the criteria for determining the period of ineligibility are the same as criteria specified in section 1613(c) of the Social Security Act (Act).

1. Transfer of resources other than the home of an individual who is an inpatient in a medical institution.

a. /X/ The agency uses a procedure which provides for a total period of ineligibility greater than 24 months for individuals who have transferred resources for less than fair market value when the uncompensated value of disposed of resources exceeds \$12,000. This period bears a reasonable relationship to the uncompensated value of the transfer. The computation of the period and the reasonable relationship of this period to the uncompensated value is described as follows:

The disqualification period is based on a reasonable relationship to cost of care of a person not eligible for Title XIX.

(1) Disposal of resources for less than fair market value prior to July 1, 1989, or October 1, 1989, between spouses.

In determining eligibility for Medicaid for persons described in Iowa Administrative Code 441--75.1(3), 75.1(4), 75.1(6), 75.1(7), 75.1(9), 75.1(13), 75.1(17), 75.1(18), 75.1(23), 75.1(25), 75.1(27), 75.1(29), and 86.1, resources transferred (continued on pg. 1a)

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Iowa

during or after the 24-month period prior to application which were not exempt at the time of transfer and which the person gave away or sold at less than fair market value prior to October 1, 1989, for transfers between spouses and prior to July 1, 1989, for transfers to others for the purpose of establishing eligibility for Medicaid shall be counted as resources still available to the person for the following period of time:

- (a) For uncompensated value of \$12,000 or less: 24 months from the date of transfer.
 - (b) For uncompensated value between \$12,001 and \$24,000: 36 months from the date of transfer.
 - (c) For uncompensated value between \$24,001 and \$36,000: 48 months from the date of transfer.
 - (d) For uncompensated value between \$36,001 and \$50,000: 60 months from the date of transfer.
 - (e) For uncompensated value over \$50,000: 72 months from the date of transfer.
- (2) Disposal of resources for less than fair market value on or after July 1, 1989, or on or after October 1, 1989, between spouses, and on or before August 10, 1993.

In determining Medicaid eligibility for persons described in Iowa Administrative Code 441--Chapters 75, 83, and 86, transfers of resources occurring on or after October 1, 1989, between spouses and on or after July 1, 1989, to others, and on or before August 10, 1993, will affect Medicaid eligibility as provided below. Resources transferred by an institutionalized person or an institutionalized person's spouse during or after the 30-month period before the date the person entered the medical institution (for persons eligible for Medicaid on that date), or (for persons not eligible on that date).

TN No. MS-94-004

Supersedes

Approval Date

MAY 10 1994

Effective Date

10/01/93

TN No. MS 90-19

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Iowa

the date application is made while a person is residing in a medical institution shall disqualify the institutionalized person for nursing facility services and for a level of care in a medical institution equivalent to that of nursing facility services and for home-and community-based waiver services with these exceptions:

- a. The transfer of resources was between spouses or to another for the sole benefit of the institutionalized person's spouse on or after October 1, 1989.
- b. The transfer of resources was pursuant to a court order against the institutionalized spouse for the support of a community spouse and the resources were transferred for the support of the community spouse, or for the support of a minor or dependent child, dependent parent, or dependent sibling of the institutionalized or community spouse residing with the community spouse.
- c. The resource transferred was a home and the home was transferred to any of the following:
 - (1) The spouse of the institutionalized person.
 - (2) A child of the institutionalized person who is under age 21, or who is blind or disabled as defined under Section 1614 of the Social Security Act.
 - (3) A sibling of the institutionalized person who has an equity interest in the home and who was residing in the home for a period of at least one year immediately before the date the person became an "institutionalized person" or eligible for home-and community-based waiver.

State Plan TN # MS-90-19

Supersedes TN # MS-89-24

Effective 5/1/90
Approved 6/25/90

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Iowa

- (4) A son or daughter of the institutionalized person who was residing in the person's home for a period of at least two years immediately before the date the person became an "institutionalized person" and who provided care to the person which permitted the person to reside at home rather than in a medical institution.
- (d) The transfer of resources was to the person's blind or disabled child, as defined under section 1614 of the Social Security Act.
- (e) The transferor makes a satisfactory showing that the transferor intended to dispose of the resource either at fair market value or for other valuable consideration, or that the resource was transferred exclusively for a purpose other than to establish eligibility for Medicaid.
- (f) It is determined that denial of eligibility would work an undue hardship under 75.15(3).

Unless exempt, the transfer of resources will result in 30 months of ineligibility beginning with the month of transfer, or a lesser period determined by dividing the total uncompensated value of resources transferred by the average statewide cost of nursing facility services to a private-pay resident at the time of application.

The Department redetermines the average statewide private-pay cost of nursing facility services annually.

TN No. MS-98-36
Supersedes
TN No. MS-97-13

Approval Date FEB 2 1999 Effective Date OCT 1 1998

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Iowa

Undue hardship in denying eligibility
will exist only where both of the
following conditions are met:

- a. The person who transferred the
resource or the person's spouse
has exhausted all means including
legal remedies and consultation with
an attorney to recover the resource.
- b. The person's remaining available
resources (after the attribution
for the community spouse) are less
than the monthly statewide average
cost of nursing facility services
to a private pay resident. The value
of all resources is counted except
for:
 - (1) The home if occupied by a dependent
relative, or a doctor verifies that
the person is expected to return
home.
 - (2) Household goods.
 - (3) A vehicle required by the client
for transportation.
 - (4) Funds for burial of \$4,000 or less.

Hardship will not be found if the resource
was transferred to a person who was handling
the financial affairs of the client or to
the spouse or children of a person handling
the financial affairs of the client unless
the client demonstrates the payments can-
not be obtained from the funds of the per-
son who handled the financial affairs to
pay for nursing facility services.

State Plan TN # MS-90-19
Supersedes TN # MS-89-24

Effective 5/1/90
Approved 6/25/90

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Iowa

- (3) Disposal of assets for less than fair market value after August 10, 1993.

In determining Medicaid eligibility for persons described in 441-IAC Chapters 75, 83, and 86, a transfer of assets occurring after August 10, 1993, will affect Medicaid payment for medical services as provided below.

- (a) (1) If an institutionalized individual or the spouse of the individual disposed of assets for less than fair market value on or after the look-back date specified in paragraph (b), the institutionalized individual is ineligible for medical assistance for nursing facility services, a level of care in any institution equivalent to that of nursing facility services, and home and community-based waiver services during the period beginning on the first day of the first month during or after which assets were transferred for less than fair market value and which does not occur in any other periods of ineligibility under this rule and equal to the number of months specified in paragraph (c).
- (2) If a noninstitutionalized individual or the spouse of the individual disposed of assets for less than fair market value on or after the look-back date specified in paragraph (b), the individual is ineligible for medical assistance for home health care services, home and community care for functionally disabled elderly individuals, personal care services, and other long-term care services during the period beginning on the first day of the first month during or after which assets have been transferred for less than fair market value and which does not occur in any other periods of ineligibility under this rule and equal to the number of months specified in paragraph (c)
- (b) The look-back period date is the date that is 36 months (or, in the case of payments from a trust or portion of a trust that are treated as assets disposed of by the individual, 60 months) before:

TN No. MS-94-004

Supersedes

TN No. NONE

Approval Date

MAY 10 1994

Effective Date

10/01/93

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Iowa

- (1) The date an institutionalized individual is both an institutionalized individual and has applied for medical assistance, or
- (2) The date the noninstitutionalized individual applies for medical assistance.
- (c) The number of months of ineligibility shall be equal to the total cumulative uncompensated value of all assets transferred by the individual (or the individual's spouse) on or after the look back date specified in paragraph (b), divided by the statewide average private pay rate for nursing facility services at the time of application. The statewide average private pay rate for nursing facility services is set forth in page 1c of this section.
- (d) The number of months of ineligibility otherwise determined with respect to the disposal of an asset shall be reduced by any months of ineligibility applicable to the individual prior to a change in institutional status.
- (e) In case of a transfer after August 10, 1993, by a spouse of an individual which results in a period of ineligibility for medical assistance under the state plan for the individual, the period of ineligibility shall be apportioned between the individual and the individual's spouse if the spouse otherwise becomes eligible for medical assistance under the state plan. The remaining penalty period shall be evenly divided on a monthly basis, with any remaining month of penalty (prorated as a half month to each spouse) applied to the spouse who initiated the transfer action.

If a spouse subsequently dies prior to the end of the penalty period, the remaining penalty period shall be applied to the surviving spouse's period of ineligibility.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Iowa

(f) An individual shall not be ineligible for medical assistance to the extent that:

(1) the assets transferred were a home, and title to the home was transferred to either:

- (i) a spouse of the individual, or
- (ii) a child who is under age 21 or is blind or permanently and totally disabled as defined in 42 USC @1382c, or
- (iii) a sibling of the individual who has an equity interest in the home and who was residing in the individual's home for a period of at least one year immediately before the individual became institutionalized, or
- (iv) a son or daughter of the individual who was residing in the individual's home for a period of at least two years immediately before the date of institutionalization and who provided care to the individual which permitted the individual to reside at home rather than in an institution or facility.

(2) The assets were transferred:

- (i) to the individual's spouse or to another for the sole benefit of the individual's spouse,
- (ii) from the individual's spouse to another for the sole benefit of the individual's spouse,
- (iii) to a trust established solely for the benefit of a child who is blind or permanently and totally disabled as defined in 42 USC @1382c, or
- (iv) to a trust established solely for the benefit of an individual under 65 years of age who is disabled as defined in 42 USC @1382c.

(3) A satisfactory showing is made that:

- (i) the individual intended to dispose of the assets either at fair market value, or for other valuable consideration,

TN No. MS-94-004

Supersedes

TN No. NONE

Approval Date

DEC 10 1994

Effective Date

10/01/93

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Iowa

- (ii) the assets were transferred exclusively for a purpose other than to qualify for medical assistance, or
 - (iii) all assets transferred for less than fair market value have been returned to the individual.
- (4) The denial of eligibility would work an undue hardship as set forth in Supplement 10 to Attachment 2.6-A, page 1.
- (g) In the case of an asset held by an individual in common with another person or persons in a joint tenancy, tenancy in common, or similar arrangement, the asset, or the affected portion of such asset, shall be considered to be transferred by the individual when any action is taken, either by the individual or by any other person, that reduces or eliminates such individual's ownership or control of the asset.

In this section the following definitions apply:

- (1) "Assets" shall include all income and resources of the individual and the individual's spouse, including any income or resources which the individual or the individual's spouse is entitled to but does not receive because of action by:
- (i) the individual or the individual's spouse,
 - (ii) a person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or the individual's spouse, or
 - (iii) any person, including any court or administrative body, acting at the direction or upon the request of the individual or the individual's spouse.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Iowa

- (2) "Income" shall be defined by 42 USC @1382a.
- (3) "Resources" shall be defined by 42 USC @1382b without regard (in the case of an institutionalized individual) to the exclusion of the home and land appertaining thereto.
- (4) "Institutionalized individual" shall mean an individual who:
 - (i) is an inpatient in a nursing facility,
 - (ii) is an inpatient in a medical institution and with respect to whom payment is made based on a level of care provided in a nursing facility, or
 - (iii) is eligible for home-and community- based waiver services.

TN No. MS-94-004

Supersedes

TN No. NONE

Approval Date JUN 10 1994

Effective Date 10/01/93